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 RITE AID CORPORATION

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8 UNITED STATES DISTRICT COURT  
 9 NORTHERN DISTRICT OF CALIFORNIA

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11 KIMBERLY BEAGLE,  
 Plaintiff,

12 vs.

13 RITE AID CORPORATION; and DOES  
 14 1 TO 100, INCLUSIVE,

15 Defendants.

16 Case No.: CV08-1517-PJH

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**[PROPOSED] ORDER GRANTING  
 DEFENDANT RITE AID'S MOTION  
 TO DISMISS FOR LACK OF  
 SUBJECT MATTER JURISDICTION  
 (FRCP 12(b)(1))**

18 Date: Wednesday, June 4, 2008

19 Time: 9:00 a.m.

20 Dept.: Courtroom 3, 17<sup>th</sup> Floor

21 On June 4, 2008, the motion of Defendant Rite Aid Corporation ("Rite  
 22 Aid") to dismiss the disability harassment cause of action (the Second Cause of  
 23 Action) in the complaint filed by Plaintiff Kimberly Beagle ("Plaintiff") came on  
 regularly for hearing before the Honorable Phyllis A. Hamilton. Mark Adams,  
 24 Esq. of Mayall, Hurley, Knutsen, Smith & Green appeared on behalf of Plaintiff.  
 Annmarie M. Liermann, Esq. of Kelly, Hockel & Klein, P.C. appeared on behalf  
 25 of Defendant.

26 The Court having considered the papers filed in support of and in  
 opposition to the motion, the arguments of counsel at the hearing on the  
 27 motion, and the pleadings on file in this action, makes the following order:  
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1       Defendant's motion to dismiss Plaintiff's disability harassment claim (the  
2 Second Cause of Action) is hereby GRANTED with prejudice. The Court lacks  
3 jurisdiction over the disability harassment cause of action because Plaintiff  
4 failed to exhaust her administrative remedies as to that claim.

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6       IT IS SO ORDERED.  
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8 DATED: 6/5/08  
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